

Short Title: Non-commercial Requests to Inspect Department Records & Fees for Copies

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under ARS 41-1033 for a review of the statement.

Description of Practice/Procedure: Arizona's public record statute, A.R.S. § 39-121, provides: "Public records and other matters in the office of any officer at all times during office hours shall be open to inspection by any person."

Contact the Consumer Assistance Team to review any file except a subdivision file. Contact the Subdivisions Division to review any subdivision file. If the request is for numerous files or a requested file is stored off-site, additional time may be required. The Department's charge for photocopies of records is \$0.25/page for non-commercial use, except in response to any Subpoena Duces Tecum.

Allow the days indicated for the files to be retrieved and any restricted information to be redacted.

2-3 day advance notice salesperson, broker, school, instructor or course file.

2-5 days advance notice audit inspection or hearing/disciplinary file.

5-7 days advance notice recovery fund files; public report files for subdivisions, time-shares, membership campgrounds, & unsubdivided land; cemetery applications; and closed investigative files.

The Department will deny public inspection of a particular record if: 1) the record is made confidential by statute; 2) the record involves the privacy interests of persons; 3) the record is the subject of an open (pending) investigation; or 4) disclosure would be detrimental to the best interests of the state. The following information shall be redacted: correspondence between the Attorney General's Office and the Department that contains information protected under attorney / client privilege; licensee's date of birth and Social Security Number; criminal history record information; written offers to settle or compromise and correspondence related to settlement of administrative actions by the Department Internal memoranda regarding regulated parties and case strategy.

Authority: The authority to charge a fee for copying is at A.R.S § 39-121.03. Fees for copies required by a Subpoena Duces Tecum are set by Arizona Rules of Civil Procedure. The authority to redact certain data from the Department's records before they are produced includes: advice given to the Department from the Attorney General's Office pursuant to A.R.S. § 12-2234; criminal history record information pursuant to A.R.S. § 41-1740; dates of birth pursuant to *Scottsdale Unified School District v. KPNX*, 191 Ariz. 297, 955 P.2d 534 (1998); Social Security Numbers pursuant to 42 USC § 405 (c)(2)(C)(viii)(I); written offers to settle or compromise administrative actions by the Department; all correspondence related to settlement negotiations pursuant to Rule 408, Arizona Rules of Evidence; and memoranda, both interoffice & intra-office, to the Commissioner, either directly or through the supervisory chain of command, of an advisory or consultative nature pursuant to the deliberative process privilege. See S.P.S. 2004.03 relative to restricted release of home addresses.

Policy Program: Administration; Administrative Actions; Education & Licensing; Investigations & Audits; Subdivision Compliance.

Effective Date: 6/18/1999; Revised & Renumbered 5/28/04; Renumbered 4/01/05.

Persons with disabilities who need this document in an alternate format should contact Business Services at 602.468.1414, ext. 160, or IADA@re.state.az.us to make your needs known.